APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,578	06/04/2001	Roger Flores	PALM-3644.US.P	5683

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EXAMINER
PATEL, HARESH N

ART UNIT	PAPER NUMBER
2126	

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-20* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *04 June 2001* is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6) ☐ Other: .

DETAILED ACTION

1.   Claims 1-20 are presented for examination.

Specification

2.   The following guidelines illustrate the preferred layout for the specification of a utility

application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include
the following sections in order. Each of the lettered items should appear in upper case, without
underlining or bold type, as a section heading. If no text follows the section heading, the phrase
"Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR
        DEVELOPMENT.
(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A
        COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program
        listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables
        having more than 50 pages of text are permitted to be submitted on compact
        discs.) or
        REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).
        "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
(e) BACKGROUND OF THE INVENTION.
        (1) Field of the Invention.
        (2) Description of Related Art including information disclosed under 37 CFR 1.97
        and 1.98.
(f) BRIEF SUMMARY OF THE INVENTION.
(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(h) DETAILED DESCRIPTION OF THE INVENTION.
(i) CLAIM OR CLAIMS (commencing on a separate sheet).
(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence
        Listing" is required on paper if the application discloses a nucleotide or amino
        acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence
        Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because of the following informalities:

    i.   The section "CROSS-REFERENCE TO RELATED APPLICATIONS" is missing co-pending applications.

    ii.   All the known prior art contents from the "DETAILED DESCRIPTION OF THE INVENTION" section needs to be moved into the "Description of Related Art" sub-section of the "BACKGROUND OF THE INVENTION" section.

    iii.   The "Description of Related Art" sub-section of the "BACKGROUND OF THE INVENTION" section <u>must contain all the known prior art subject matter, which is used in the claims</u>, for example, "accessing a first program call having a parameter identifying a first portion of content whose usage is to be measured". It applies for the dependent claims also, for example, "measuring the number of processor cycles elapsed, wherein the amount of time that said first portion of content was used is measured".

Appropriate correction is required.

3.   The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "An improved system and method to collect, store and share the application usage and related data over the Internet".

Drawings

4.   Figure 6 should be designated by a legend such as --Prior Art-- because only that which is

old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings

are required in reply to the Office action to avoid abandonment of the application. The objection

to the drawings will not be held in abeyance.

5.   New corrected drawings are required in this application because Figure 2 does not show

connections to the Internet. Also the labels of the repository contents are missing. Applicant is

advised to employ the services of a competent patent draftsperson outside the Office, as the U.S.

Patent and Trademark Office no longer prepares new drawings. The corrected drawings are

required in reply to the Office action to avoid abandonment of the application. The requirement

for corrected drawings will not be held in abeyance.

Information Disclosure Statement

6.   Applicant and the assignee of this application are required under 37 CFR 1.105 to

provide the following information that the examiner has determined is reasonably necessary to

the examination of this application.

In response to this requirement, please provide the title, citation and copy of each

publication that is a source used for the description of the prior art in the disclosure. For each

publication, please provide a concise explanation of that publication's contribution to the

description of the prior art.

This Office action has an attached requirement for information under 37 CFR 1.105. A

complete reply to this Office action must include a complete reply to the attached requirement

for information. The time period for reply to the attached requirement coincides with the time

period for reply to this Office action.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

8.   Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al.

5,796,952 (Hereinafter Davis) in view of applicant's admitted prior art (AAPA).

9.   As per claims 1, 11 and 16, Davis teaches the following:

a method of automatically tracking content usage comprising the steps of (e.g., The

present invention relates to a method and apparatus for monitoring client use of and interaction

with a resource downloaded from a server on a computer network, for storing monitored data, for

creating a database including profiles indexed by user and/or resource identity, and for

generating customized resources based upon client profiles, col. 1, lines 8 – 13, ability to

automatically monitor use of and interaction with resources downloaded by users so as to

facilitate the targeted serving of information, col. 1, lines 62 – 64),

a. method of automatically tracking software usage, said method comprising the steps of,

in a computer system having a processor coupled to a bus, a computer readable medium

coupled to said bus and having stored therein a computer program that when executed by said

processor causes said computer system to:

a) accessing a first program call having a parameter identifying a first portion of content

whose usage is to be measured (e.g., The tracking program need not originate from the same

server that sent the file, and may be obtained, for example, via an embedded URL that points to a

different server. The tracking program may be part of a larger program that performs other

operations (such as displaying animations, playing sounds, etc.). The tracking program is

downloaded from a server and runs on the client to monitor various indicia, such as elapsed time,

mouse events, keyboard events, and the like, in order to track the user's interaction with and use

of the file or to monitor choices (such as selections or links to other resources or files) made by

the user while within the file, col. 4, lines 38 – 54),

b) in response to said first program call (e.g., measuring usage for said first portion of

content (e.g., to provide means for creating a database of user profiles containing details of

individual user interaction with and use of network resources including, for example, Network

IDs (known as "IP address") and client IDs (known as "cookies") that have accessed particular

resources, the amount of time spent by users interacting with and/or using particular resources,

and details of choices created by individual users within a particular resource, col. 4, lines 11 –

18),

c) repeating said steps a) and b) for additional portions of content to be measured,

wherein content usage is tracked for a plurality of portions of content identified by a plurality of

program calls (e.g., to create a database of server resources including, but not limited to, the

number of times a resource has been displayed by clients, the amount of time displayed, and the

type and amount of information that was displayed or transferred. This information could be

used by network administrators or servers to analyze the effectiveness of the resources made

available on their network servers, col. 4, lines 11 – 18),

a) collecting usage data for a software program having a plurality of versions (e.g., JAVA

applets run within a "JAVA-enabled client", such as Netscape Navigator version 2.0 (Windows

95 or Windows NT versions only) or later, or Microsoft's Internet Explorer version 3.0, or later.

In addition, since most users browse with personal computers running Windows, Macintosh,

UNIX-based systems, and the like, the JAVA developers designed JAVA to be portable, or

"platform-independent", col. 10, lines 1 – 57), said collection taking place on a plurality of

electronic devices (e.g., This information could be used by network administrators or servers to

analyze the effectiveness of the resources made available on their network servers, col. 4, lines

11 – 18),

b) associating a unique identifier with said usage data for at least two of said plurality of

versions; and (e.g., The server returns a Web page with a response header which creates, or

"sets" an ID field located in a file on the client computer (this file is known as the "client ID" or

"cookie") to include information about the user's preferences, col. 2, lines 1 – 53),

c) transferring said usage data to a repository, wherein said usage data collected on said

plurality of devices for said at least two versions of said software program is merged (e.g., to

create a database of server resources including, but not limited to, the number of times a resource

has been displayed by clients, the amount of time displayed, and the type and amount of

information that was displayed or transferred. This information could be used by network

administrators or servers to analyze the effectiveness of the resources made available on their

network servers, col. 4, lines 11 – 18),

a) accessing a call from a software program (e.g., the tracking program), said call

specifying a first content identifier, said first content identifier identifying content related to said

software program whose usage is to be measured (e.g., the tracking program is implemented in a

network based upon the client/server model, and may be implemented in a public network such

as the Internet or World Wide Web. The tracking program may monitor use of and interaction

with any of the resources downloaded from a server, including an executable program, a

database file, an interactive game, a multimedia application, and the like, col. 5, lines 4 – 10),

b) in response to said call, measuring usage for content associated with said first content

identifier; (e.g., the tracking program is implemented in a network based upon the client/server

model, and may be implemented in a public network such as the Internet or World Wide Web.

The tracking program may monitor use of and interaction with any of the resources downloaded

from a server, including an executable program, a database file, an interactive game, a

multimedia application, and the like, col. 5, lines 4 – 10),

c) until said software program stops execution, repeating said steps a) through b) for a

plurality of call specifying a plurality of content identifiers, wherein said content usage is tracked

for said plurality of content identifiers (e.g., The client also fetches the second executable

program, which is the tracking program. The tracking program downloads to the client, and,

after performing any required initialization, determines the current time. The tracking program

also determines the current time upon the performance of a predetermined operation on the client

computer by a user, such as leaving the HTML document. After calculating the amount of time

the user interacted with and displayed the HTML document, i.e., by determining the difference in

time values, the tracking program uploads the calculated value to the server for storage in the

user profile database, col. 5, lines 45 – 56),

and d) outputting said content usage (e.g., to provide means for creating a database of

user profiles for use by advertisers and/or marketers to determine the effectiveness and value of

network-based advertisements and/or marketing resources, col. 4, lines 19 –24).

However, Davis does not specifically show collecting of data using program calls.

AAPA teaches the following:

accessing a program call (e.g., one conventional method of tracking application usage

provides software which monitors application usage, page 1, lines 23 – 24).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the teachings of Davis with the teachings of AAPA in order to facilitate an

improved system and method to collect, store and share application usage related data over the

internet.

10.   As per claims 2-10, 12-15 and 17-20, Davis teaches the following:

said portions of content are levels of a game (e.g., The tracking program may monitor use

of and interaction with any of the resources downloaded from a server, including an executable

program, a database file, an interactive game, a multimedia application, and the like. In the case

of the Internet, for example, the tracked resource may, for example, be a file such as a Web page

or part of a Web page (such as an ad banner), col. 5, lines 4 –10),

said portions of content are segments in an electronic document (e.g., The tracking

program may monitor use of and interaction with any of the resources downloaded from a server,

including an executable program, a database file, an interactive game, a multimedia application,

and the like. In the case of the Internet, for example, the tracked resource may, for example, be a

file such as a Web page or part of a Web page (such as an ad banner), col. 5, lines 4 –10),

a1) accessing in said first program call a parameter indicating that usage measurement is

to begin for said first portion of content; (e.g., START method. The START method will make

note of the current time using standard JAVA methods (S408), col. 11, lines 12 – col.14, line

46),

b1) measuring the amount of time said first portion of content was used (e.g., START

method. The START method will make note of the current time using standard JAVA methods

(S408), col. 11, lines 12 – col.14, line 46), and

b2) accessing in a second program call an indication that usage measurement is to end for

said first portion of content (e.g., The STOP method of the applet which is executed, col. 11,

lines 12 – col.14, line 46),

accessing in said second program call a parameter identifying a new portion of content,

wherein measurement of said first portion of content identifier is stopped (e.g., START method.

The START method will make note of the current time using standard JAVA methods (S408),

The STOP method of the applet which is executed, col. 11, lines 12 – col.14, line 46),

a1) accessing in said first program call a parameter indicating that usage measurement is

to begin for said first portion of content (e.g., START method. The START method will make

note of the current time using standard JAVA methods (S408), The STOP method of the applet which is executed, col. 11, lines 12 – col. 14, line 46),

b1) measuring the number of processor cycles elapsed, wherein the amount of time that said first portion of content was used is measured; and (e.g., Still another object of the present invention is to create a database of server resources including, but not limited to, the number of times a resource has been displayed by clients, the amount of time displayed, and the type and amount of information that was displayed or transferred. This information could be used by network administrators or servers to analyze the effectiveness of the resources made available on their network servers, col. 4, lines 11 – 18),

b2) accessing in a second program call an indication that usage measurement is to end for said first portion of content (e.g., Still another object of the present invention is to create a database of server resources including, but not limited to, the number of times a resource has been displayed by clients, the amount of time displayed, and the type and amount of information that was displayed or transferred. This information could be used by network administrators or servers to analyze the effectiveness of the resources made available on their network servers, col. 4, lines 11 – 18),

d) accessing in a second program call of said plurality a content usage indicator describing how much of a second portion of content was utilized (e.g., Still another object of the present invention is to create a database of server resources including, but not limited to, the number of times a resource has been displayed by clients, the amount of time displayed, and the type and amount of information that was displayed or transferred. This information could be

used by network administrators or servers to analyze the effectiveness of the resources made

available on their network servers, col. 4, lines 11 – 18),

content usage indicator describes the percent of said second portion of content was

utilized (e.g., Still another object of the present invention is to create a database of server

resources including, but not limited to, the number of times a resource has been displayed by

clients, the amount of time displayed, and the type and amount of information that was displayed

or transferred. This information could be used by network administrators or servers to analyze

the effectiveness of the resources made available on their network servers, col. 4, lines 11 – 18),

storing content usage data for each of said plurality of portions of content, transferring

said usage data to a repository, tabulating and reporting said usage data, repeating said steps a)

through c) for a plurality of devices executing a software program having a plurality of versions

(e.g., Still another object of the present invention is to create a database of server resources

including, but not limited to, the number of times a resource has been displayed by clients, the

amount of time displayed, and the type and amount of information that was displayed or

transferred. This information could be used by network administrators or servers to analyze the

effectiveness of the resources made available on their network servers, col. 4, lines 11 – 18),

transferring said content usage to a repository, wherein said content usage collected on

said plurality of devices for said at least two versions of said software program is merged (e.g.,

Still another object of the present invention is to create a database of server resources including,

but not limited to, the number of times a resource has been displayed by clients, the amount of

time displayed, and the type and amount of information that was displayed or transferred. This

information could be used by network administrators or servers to analyze the effectiveness of

the resources made available on their network servers, col. 4, lines 11 – 18).

Conclusion

11.   Examiner has found numerous arts related to the disclosed subject matter. Below are

some of the cited references. The prior art made of record and not relied upon is considered

pertinent to applicant's disclosure.

Harvery et al. 6,487,583. Harvey teaches a similar information and application

distribution system.

Kelley, 6,526,524. Kelley teaches a similar web browser program feedback system.

Pivowar 6,308,201. Pivowar teaches a system and method for sharing data among

plurality of personal digital assistants.

Albercht 6,616,532. Albercht teaches an electronic game enhancement systems and

methods.

Houston, 6,353,929. Houston teaches a very similar cooperative system for measuring

electronic media.

See Form PTO-892.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Haresh Patel whose telephone number is (703) 605-5234. The

examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to

8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached at (703) 305-8498.

The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 306-5404.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Haresh Patel

October 16, 2003.

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100